

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ERIC MARTIN,)	
)	
Petitioner,)	Case No. 2:05-cv-155
)	
v.)	HON. RICHARD ALAN ENSLEN
)	
MARGARET CHIARA,)	
)	<u>JUDGMENT</u>
Respondent.)	
_____)	

This is a petition for writ of mandamus brought by a state prisoner pursuant to 28 U.S.C. § 1361. Petitioner claims that he has been the victim of several federal crimes while incarcerated in the Baraga Maximum Correctional Facility (AMF). Petitioner states that he wrote Respondent several letters requesting her to present evidence of the alleged crimes to a federal grand jury. Petitioner now seeks to compel Respondent to present said evidence to a grand jury.

The court notes that the federal mandamus statute provides that “[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. However, “[n]o federal appellate court, including the Supreme Court . . . has recognized that there is a federally enforceable right for the victim [of a crime] to have criminal charges investigated at all.” *White v. City of Toledo*, 217 F. Supp. 2d 838, 841-42 (N.D. Ohio 2002); *Langworthy v. Dean*, 37 F. Supp. 2d 417, 422 (D. MD. 1999). The conclusion that such a right does not exist is supported by the fact that there is no federally protected right to compel the prosecution of a criminal activity. *Diamond v. Charles*, 476 U.S. 54, 63 (1986); *Linda R. S. v. Richard D.*, 410

U.S. 614, 619 (1973); *Associated Builders & Contractors v. Perry*, 16 F.3d 688, 691-92 (6th Cir. 1994). Therefore, because Respondent does not owe a duty to Petitioner, Petitioner's request for relief is properly denied.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's petition for writ of mandamus (Dkt. No. 1) is **DENIED**.

DATED in Kalamazoo, MI:
August 11, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE